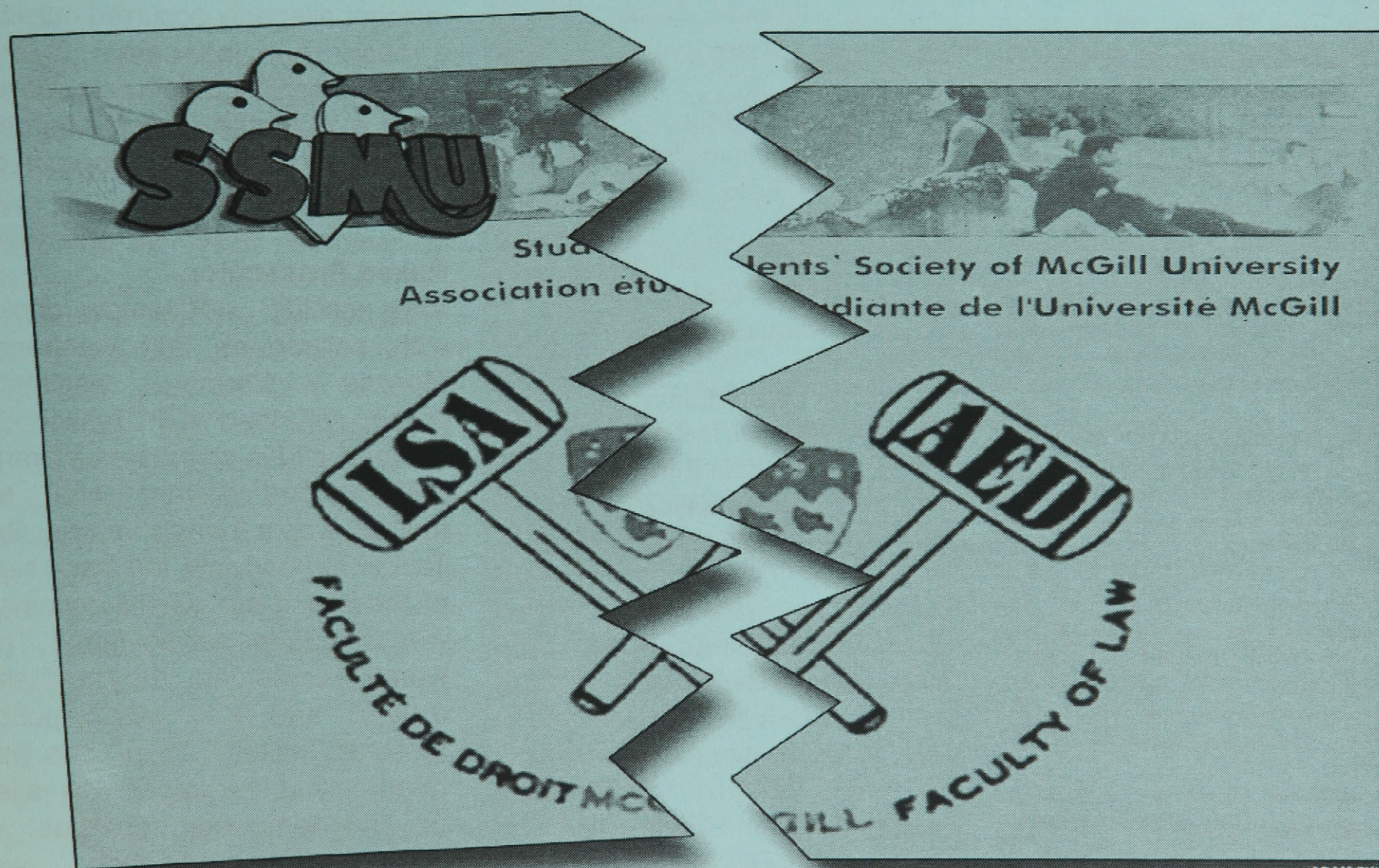


Quid Novi

McGill University, Faculty of Law
Volume 25, no. 20 - March 1, 2005

SPECIAL ISSUE
NUMÉRO SPÉCIAL

LAW SCHOOL ALUMNUS TERMINATES LSA FUNDING



ANCIEN DE LA FACULTÉ DE DROIT COUPE
LE FINANCEMENT DE L'AED

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Week in Review...

Thieves steal diamond truck

Thieves hijacked a heavily armoured truck carrying diamonds and jewelry from Amsterdam's Schiphol airport Friday and escaped with their haul, Dutch airline KLM said. The robbers were heavily armed and the authorities were only able to recover the empty truck.

When blind man bites back

A blind man has been arrested in Scotland after witnesses reported he sank his teeth into his guide dog and kicked her across the road, police said on Thursday. The incident allegedly occurred outside a busy shopping center in the Scottish capital Edinburgh. David Todd is expected to face charges of cruelty to animals and breach of the peace.

Naked Prosecutor

After tossing back a few drinks with colleagues last weekend, Monroe County assistant prosecutor Albert "A.J." Tasker, 28, stripped off his clothes as a prank and headed toward what he thought was a friend's vehicle. But Tasker jumped into the back seat of the wrong car, where a woman was waiting for her boyfriend. The woman screamed, the boyfriend arrived and Key West police arrested Tasker. Tasker, who was hired only in December, was jailed on misdemeanor charges of disorderly intoxication and exposure of sexual organs. He was released on bond and is on an unpaid leave of absence from his job.

President's Perspective: SSMU President / Law School Alumnus Terminates LSA Funding

By Michael Hazan (LSA President)

After several discussions with the LSA Executive, acting SSMU President Andrew Bryan (BCL/LLB '04) has ended a 6-year agreement that has seen the SSMU transfer \$6000 annually to the LSA. In effect, Mr. Bryan's decision will likely see the demise of all law school clubs in their present form. For the last six years, the LSA has relied on this money to fund its clubs as well as other special events within the Faculty.

The LSA Executive was first notified of the SSMU's unwillingness to honour its binding 1997-1998 contract by Mr. Bryan in October. In one of his first acts of business as President, Mr. Bryan explained that there was not a sufficient basis for a contract between the LSA and SSMU and refused to transfer the funds. It was only after the LSA threatened legal action that Mr. Bryan and his Executive decided to send our \$6000 cheque. Along with the funds, Mr. Bryan gave notice of his intention to terminate the contract but left the possibility open that a mutually agreeable arrangement could be negotiated.

In the ensuing letter, you will find the LSA's attempt and reasoning to maintain the current fund transfer. However, in his last letter dated February 16, 2005, Mr. Bryan gives the LSA the distinct impression that

he no longer wishes to negotiate a new agreement.

The original agreement came into effect in 1997-1998, at a time where the LSA was unhappy paying fees to the SSMU for services they didn't use and were considering an exit strategy. Then LSA President Steve Kelly and VP External Mario Nigro reached an agreement whereby the SSMU would transfer \$6000 back to the LSA so they could administer clubs and services for law students. For the most part, students were paying two student fees and only receiving service from one organization (the LSA). Now, Mr. Bryan wants each law student to continue paying \$65 annually to the SSMU with no guaranteed funding in return.

Without this \$6000 transfer in fees, it will be extremely difficult for any LSA Executive, given our financial situation, to provide sufficient funding to any of our clubs. This would force all of our clubs to seek status within the overly-bureaucratic SSMU. Further, even if our clubs are registered, they will be open to all undergraduate members of McGill. In all likelihood, some clubs will not receive full-club status because some current SSMU clubs offer similar programming. For example, the Jewish Law Students' Association and Latin American Law Students' Association might not receive club status because

Hillel and Spanish and Latin American Students' Association, respectively already offer programming similar in nature.

Further, according to SSMU guidelines, other clubs in possible jeopardy would include Outlaw, Environmental Law McGill, Women's Caucus and the Black Law Students' Association. The LSA has expressed the need and importance for these funds for many years and Mr. Bryan's decision to terminate the contract is unfortunate given what Law students have given back to McGill's student life in their organization and participation in numerous conferences and events.

It was quite surprising to read Mr. Bryan's latest letter when he states "that it is unfair to artificially limit the amount of money available to law students by donating money to the LSA in the way we have been doing." In a meeting last Fall, Mr. Bryan told Andres Drew (VP External) and I that giving the LSA \$6000 was in fact too high and unfair to other SSMU clubs and groups interested in using the money within the Campus Life Fund (CLF). I find it very intriguing that he has switched his position regarding how much funding Law students deserve to receive. Therefore, why does he not guarantee us \$6000 minimum for our clubs and events? Then, should law students need more for our projects, we will then apply ▶

Let us know what you think about the LSA funding crisis.
Should we keep paying SSMU Student Fees without transfer payments?

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to the CLF? The reason for Mr. Bryan's doubletalk is that he knows that if SSMU is in control of the money, law students would not even come close to this type of funding. He has already alluded to the fact that we are a small faculty and should not receive as much funding as Arts and Science students.

I would argue that our clubs and events have made enormous contributions to McGill society and are on par or even greater than the clubs on lower campus. In 2004-2005 alone, our students have brought in speakers such as Juan Melendez who shared his experiences on death row, will raise close to \$40,000 for

charities from Skit Nite and will see Justice Lebel from the Supreme Court of Canada speak on March 21st. These are not ordinary activities, rather they are extraordinary events organized by law students that benefit the entire McGill community. They proceed, in part, because the LSA is flexible, accountable and responsive to its members. The LSA has acted diligently and fairly with our clubs and we want to maintain their funding as well as our close relationship with them. Under Bryan's plan, many clubs would cease to exist and all the hard work you and fellow students/graduates have spent on building these associations will

vanish.

The LSA will be discussing this issue at length at our next Council meeting on Wednesday March 2 at 12:45pm in room 404 at Thomson House, and you are all invited to attend. In the meantime, should you have any questions, you can e-mail me at president.lsa@mail.mcgill.ca or contact your SSMU leaders including acting President Andrew Bryan at 398-6797 or at ua@ssmu.mcgill.ca. I would encourage you to share your thoughts on this situation to any of your student representatives or in the Quid. I, for one, am tired of sending money to the SSMU and getting little or next to nothing in return. ■

La Perspective du Président: Président de l'AEUM/Un ancien de la Faculté de droit coupe le financement de l'AED

Par Michael Hazan (Président de l'AED)

A la suite de plusieurs discussions avec le Comité Exécutif de l'AED, le Président par intérim de l'Association des Étudiants de l'Université de McGill, Andrew Bryan (BCL/LLB '04) termina une entente qui avait assuré pendant six ans le transfert annuel de 6000\$ à l'AED. Il est très probable que la décision de M. Bryan mette aussi un terme à l'existence de tous les clubs de la Faculté de droit sous leur forme actuelle. En effet, durant les six dernières années, l'AED pouvait compter sur cet argent pour financer ses clubs et des événements spéciaux à la Faculté.

C'est en octobre que le Comité Exécutif de l'AED fût avisé pour la première fois par M. Bryan, du refus de l'AEUM d'honorer le contrat qui la

lie depuis 1997-1998. En tant qu'une de ses premières décisions comme Président, M. Bryan expliqua qu'il n'y avait aucunes bases suffisantes pour un contrat entre l'AED et l'AEUM et conséquemment refusa de transférer les fonds. Ce n'est qu'à la suite de menaces de poursuites judiciaires de la part de l'AED que M. Bryan et son Comité Exécutif décidèrent de nous envoyer le chèque pour 6000\$. Accompagné du chèque, M. Bryan nous avisa de sa décision de mettre fin au contrat, en laissant toutefois la porte ouverte pour la négociation d'une entente qui serait mutuellement satisfaisante.

Dans la lettre qui suit, vous trouverez la tentative et le raisonnement de l'AED pour maintenir le transfert actuel de fonds.

Il est cependant important de préciser que dans sa dernière lettre datée du 16 février 2005, M. Bryan donne à l'AED la distincte impression qu'il ne désire plus négocier une nouvelle entente.

L'entente originale entra en vigueur durant l'année 1997-1998 quand l'AED était mécontente de payer des frais à l'AEUM pour des services qu'elle n'utilisait pas et recherchait donc une alternative. Le Président de l'AED de l'époque, Steve Kelly et le VP Externe, Mario Nigro arrivèrent à une entente par laquelle l'AEUM re-transférerait 6000\$ à l'AED pour qu'elle puisse administrer les clubs et services pour les étudiants de droit. Pour la plus grande part, les étudiants payaient deux types de frais mais ne ▶

recevaient que de services d'une seule organisation, l'AED. Maintenant, M. Bryan désire que chaque étudiant en droit continue de payer les 65\$ annuels à l'AEUM sans garantie de financement en retour.

Sans ce transfert de 6000\$, il sera extrêmement difficile pour le Comité Exécutif de l'AED de fournir un financement suffisant à n'importe lequel de nos clubs étant donné notre situation financière. Cette situation forcerait tous nos clubs à rechercher un statut à l'intérieur de la structure beaucoup trop bureaucratisée de l'AEUM. De plus, même si nos clubs sont enregistrés, ils seront ouverts à tous les étudiants de premier cycle de McGill, sans exceptions. Vu les circonstances, certains clubs ne recevront pas le statut de club à part entière parce que certains clubs actuels de l'AEUM offrent déjà une programmation similaire. Par exemple, la « Jewish Law Students' Association » et la « Latin American Law Students' Association » pourraient ne pas recevoir le statut de club à cause de « Hillel » et la « Spanish and Latin American Students' Association » qui offrent des programmes similaires en nature.

De même, d'après les indications de l'AEUM, les autres clubs comme « Outlaw », « Environmental Law McGill », « Women's Caucus » et le « Black Law Students' Association » figurent parmi ceux qui seraient en danger. L'AED déjà exprima le besoin et l'importance de ces fonds depuis plusieurs années et la décision de M. Bryan de mettre fin au contrat est bien malheureuse étant donné tout ce que les étudiants en droit contribuent à la vie étudiante à McGill à travers l'organisation et la participation à plusieurs événements et conférences.

Il fût très surprenant de lire la

dernière lettre de M. Bryan surtout alors qu'il y énonce: « that it is unfair to artificially limit the amount of money available to law students by donating money to the LSA in the way we have been doing. » Dans une rencontre à l'automne dernier, M. Bryan indiqua à Andres Drew (VP External) et moi que le montant de 6000\$ était trop élevé et que le fait même de donner cet argent à l'AED était injuste pour les autres clubs et groupes de l'AEUM qui étaient intéressés à utiliser l'argent dans le cadre du Campus Life Fund (CLF). Je trouve très intrigant qu'il ait changé sa position sur le montant de financement que les étudiants en droit mériteraient de recevoir.

Pourquoi ne nous garantit-il pas un minimum de 6000\$ pour nos clubs et événements? Par après, si les étudiants en droit nécessitent plus d'argent pour nos projets, ne pouvons-nous pas toujours appliquer au CLF? La raison derrière le double jeu de M. Bryan est qu'il sait que si l'AEUM contrôle l'argent, les étudiants en droit ne recevront pas le même niveau de financement. Il a déjà fait référence au fait que nous sommes une petite Faculté et ne devrions pas recevoir autant de financement que les étudiants en Arts et Sciences. Je crois que nos clubs et événements ont apporté d'énormes contributions à la communauté de McGill et sont égaux sinon meilleurs que les clubs du campus principal.

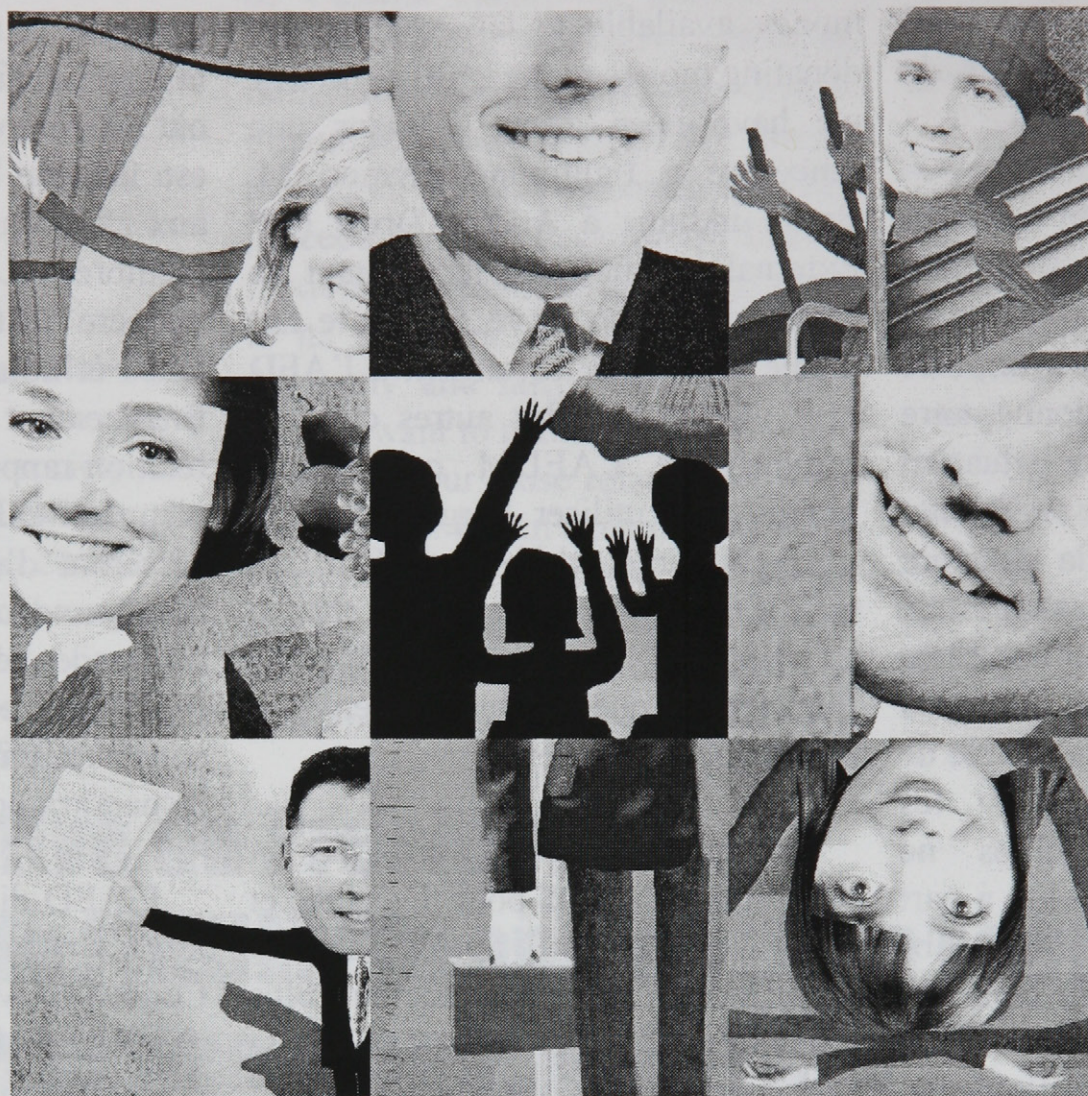
En 2004-2005 seulement, nos étudiants invitèrent des conférenciers tel que Juan Melendez qui partagea avec nous ses expériences du « death row », lèveront près de 40,000\$ de fonds pour la charité par biais du Skit Nite et pourront assister au discours de l'Honorable Juge Lebel de la Cour Suprême du Canada le 21 mars. Ce ne

sont pas des activités ordinaires : au contraire, ce sont des événements extraordinaires organisés par des étudiants en droit pour le bénéfice de la communauté entière de McGill. Ils ont lieu, entre autres, parce que l'AED est flexible, responsable et sensible aux besoins et intérêts de ses membres. L'AED toujours agit de manière juste et diligente avec les clubs et nous voulons maintenir leur financement tout autant que notre relation rapprochée avec eux. Avec le plan de M. Bryan, plusieurs groupes cesseront d'exister et tout le dur et laborieux travail que vous et vos camarades étudiants ou maintenant diplômés ont accompli pour la construction de ces associations disparaîtra pour de bon.

L'AED discutera de cette question lors de notre prochaine rencontre du Conseil le Mercredi 2 mars à 12h45 dans la salle 404 de Thomson House et vous êtes tous invités à l'assister. En attendant, si vous avez des questions, vous pouvez me contacter par e-mail à president.lsa@mail.mcgill.ca ou contacter vos leaders de l'AEUM, incluant le Président par intérim Andrew Bryan au 398-6757 ou à ua@ssmu.mcgill.ca. Je vous encourage à faire part de votre avis sur la question à n'importe lequel de vos représentants étudiants ou dans le Quid. Pour ma part, j'en ai assez d'envoyer de l'argent à l'AEUM et de recevoir peu ou presque rien en retour.

**Submission deadline:
Thursday 5PM**

Quid.law@mcgill.ca



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Letter from LSA to SSMU

January 26, 2005

Andrew Bryan
SSMU President
William and Mary Brown Student Services Building
3600 McTavish Street, Suite 1200
Montreal, Quebec
H3A 1Y2

Re: LSA-SSMU Contract

Dear Mr. Bryan:

We refer to your letter written on November 29, 2004, notifying us of SSMU's desire to re-negotiate the 1997-1998 contract between the Law Students' Association (LSA) and the SSMU.

To begin, the LSA values its relationship with the SSMU. Over the years, these two student associations have been able to work together to better meet the demands of our mutual members. Law students tend to be isolated from the McGill student body at large for a number of reasons, including their academic qualifications, professional aspirations, and demanding curriculum. For these reasons, as well as others, law students tend to overwhelmingly use the LSA rather than the SSMU as their principal link to university life. This is not just a result of physical proximity or convenience, but because the LSA has been very responsive to students' needs and wants and consistently provides services that are tailored to our small faculty. In this letter, we will outline the importance in reformulating our present agreement so as to continue the \$6000 annual transfer from the SSMU to the LSA.

1) Identity: Law students identify themselves as studying at a graduate level. Firstly, most law students have already completed undergraduate degrees, and in many instances, graduate degrees. Additionally, the curriculum at the Faculty of Law differs substantially from McGill's undergraduate curriculum. Law students relate very closely with people that are similarly situated, which is not always possible when older students are forced to interact with significantly younger students in attempt to participate in campus life.

2) Disconnect: Law students tend to feel disconnected from the greater student body at McGill University. The location of the faculty, strict curriculum requirements, and the typical profile of law students contribute to our "distance" from the rest of campus. Law students tend to focus their extra-curricular efforts around LSA and faculty planned events and lectures. Because law students tend not to participate in SSMU organized events, the current fund transfer is the best way in which SSMU can fulfill its mandate of providing services to all its members, including law students.

3) Duplication: Many law students choose to form clubs centred around the study of law and some other variable, i.e. Environmental Law or Latin American Law Students. Clubs within SSMU tend to be based on one variable only, i.e. Environment Association or Latin Students Association. If law students participated solely in these clubs, not only would they be deprived of practical value, but also most students would not join out of disinterest. For this reason, it is necessary to continue supporting law students in this fashion, in order to better meet their demands. Some may see this as a desire for exclusivity, but this is not the case. As mentioned above, law students share similar professional and academic goals, and would like the ability to form clubs based on interest, which they then connect to the study of law. Further, events and guest speakers promoted by the LSA and its clubs are open to all members of the McGill community.

4) Professional Development: Clubs at the Faculty of Law enable law students to form professional relationships with their colleagues and potential employers, both of which are invaluable to students' professional development. Clubs are a manner for law students to discuss legal issues, organize workshops relating to legal problems, and connect with other students with similar aspirations. Furthermore, many law firms or NGOs participate alongside students through guest lectures, firm ▶

tours, and other practical events. Unfortunately, law firms and many other legal professionals will not take part in activities that they do not perceive to be targeted to their "core" audience, which would be the case if law students were acting as part of a larger SSMU organized club. Restricting club funding that has gone so far in furthering the aforementioned professional ties would be a great disservice not only to law students, but to the faculty as a whole.

5) SSMU Resources: Law students, for the reasons listed above, rely on the LSA for resources. This includes club funding, special initiative requests, facilities and others. They have historically not utilized the various services that SSMU offers. For this reason, the money that would have been spent by SSMU catering to this group of more than 500 students should be put toward the services that these students actually use.

Lastly, the LSA and its members supported the SSMU referendum, this past fall, to increase SSMU fees. As this referendum was successful, the LSA and its members are surprised that despite significantly higher SSMU revenues, SSMU wants to eliminate its contribution to the LSA. We should also point out that the value of our contract has not changed despite an increase in inflation as well the size of our faculty. We would like to further state that despite the aforementioned factors the LSA is not requesting more funds, just the maintenance of our current contract.

We would like to reiterate our commitment to maintaining a healthy relationship with SSMU. It is our hope that the current contract be maintained so as to protect the valuable services the LSA continues to offer its members. Further, the LSA wants to assure the SSMU that it will promote their contributions towards LSA related events such as Orientation, Skit Nite, and Law Games as well as with club activities. The LSA relies on SSMU to help fund its clubs, which range from 15-20 per year and we hope that with continued funding we can deepen our relationship with the greater student body. Renewing this agreement is in both parties' interests as without this transfer, greater bureaucracy can be expected for both SSMU and law students attempting to fund their activities. This might also result in increased costs for SSMU as it takes over much of the administrative burden currently handled by the LSA in fielding funding requests from law clubs and individual students. We hope to hear from you no later than February 11, 2005 as we wish to settle this issue as quickly as possible.

Kind regards,

David Dubrovsky
VP Finance

Michael Hazan
President

Michael Rapps
SSMU Senator, Law

Reply from SSMU

Michael Hazan, President
Law Students' Association of McGill University
Old Chancellor Day Hall
3644 Peel Street
Montreal, QC H3A 1W9

February 16, 2005

Dear Mr. Hazan,

I refer to the LSA's unsigned letter of January 26, 2005 with respect to the renegotiation of the SSMU-LSA agreement. Let me start by assuring you that the SSMU also values its relationship with the LSA. Faculty associations play a crucial suppletive role in ensuring that the SSMU is addressing the needs of all of its roughly 19,000 members. The LSA is ideally placed to play the extremely important role of keeping the SSMU conscious of the needs of its members in the Law Faculty and ensuring that our representation of them is reflective of their positions.

Your letter makes a number of compelling arguments about the differences between law students and, for example, arts students or science students. Having just been a law student for four years, I can identify with a number of them. It is true that law students tend to have an identity separate from that of the large undergraduate faculties such as arts and science

and that there tends to be a disconnect between the Law Faculty and the rest of the campus. It is also true that there is a certain duplication between the club offerings of the SSMU and the LSA, that professional development and networking activities are best undertaken in an environment composed largely or entirely of law students and that law students typically go to the LSA for resources to support their activities rather than the SSMU. We nonetheless are not convinced that continuing to grant the LSA \$6000/year for clubs and special projects funding is the best use of that money.

The main reason that we are not convinced of this comes down, quite frankly, to the excellence of our members in the Law Faculty. As we have outlined in previous communications, by donating \$6000 to the LSA each year, we limit law students' access to SSMU funding in a way we feel is inappropriate. Law students are, overall, an extremely active group. They regularly hold ambitious, well-organized and high quality events of interest to a large number of people. These types of events, when combined with impressive alternative fundraising efforts, typically attract large SSMU subsidies. We feel that it is unfair to artificially limit the amount of money available to law students by donating money to the LSA in the way we have been doing.

You will understand that we also feel more comfortable donating money to projects when we know exactly where the money is going and what it is doing. The SSMU also typically attaches conditions to campus life funding in the form of recognizing the donation in an appropriate public place. Naturally, if we are not the ones administering the money that we donate (the administrative cost of which is marginal) we cannot exercise this function which we consider to be very important. Despite the best intentions of the LSA and through no fault of its own, your organization will never be able to determine what we believe to be an appropriate level and type of recognition for our donations as well as we can ourselves. As we've already mentioned, we accept the proposition that our members in the Law Faculty have an identity different from those of the large undergraduate. We take issue, however, with the ideas that they have an identity radically different from any other SSMU members and that they do not get involved in broader campus life on a regular basis. We also take issue with the implicit assumption in your letter that the disconnect between our members in the Law Faculty and the rest of our members is either a good thing or is inevitable.

On the issue of identity, the Law Faculty is not the only professional faculty at McGill, nor are law students the only substantially older group of students who are members of the SSMU. The students in the Faculties of Medicine and Dentistry, for example, are similarly situated, as are many students in Education. All of these types of students nonetheless tend to get involved in SSMU and its clubs. Law students, I would argue, actually participate in SSMU clubs in a proportion that exceeds their approximately 3% portion of the SSMU membership.

There are a large number of ways for law students to get involved with the SSMU that explicitly take advantage of their skills and training. Judicial Board positions, indeed, are reserved for upper-year law students. Positions within Elections McGill and roles such as Speaker of Council are also particularly well suited to law students. Law students are almost always to be found on the executives of SSMU's political clubs and are regular contributors to the activities of the Debating Union and IRSAM, the model UN club. Indeed, there has been an almost uninterrupted line of law students serving in the upper ranks of IRSAM for the last ten years.

That the LSA also provides opportunities for law students to share interests, both legal and social, through clubs is a

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wonderful initiative. It does not, however, exclude the opportunity that law students have to participate in a broader community. The two may duplicate functions to a certain extent, but we would argue that both functions are valuable and we are not convinced that it is appropriate for SSMU to commit, on a long-term basis, to specifically funding those clubs which are exclusive to law students.

Quite apart from clubs, it is through the SSMU that law students are represented to the broader University community. The law students who are members of McGill Senate sit representing the SSMU and all of its members. The situation of the undergraduate governor on McGill's Board of Governors is similar. We take our responsibility to represent our members in the Faculty of Law seriously. To do so, we must promote interaction with them, rather than lessening it. By providing services and opportunities for involvement mostly or exclusively through the LSA, we have been creating an undesirable additional separation that aggravates the disconnect you've described rather than bridging the gap. We consider this disconnect a negative thing and something which is eminently possible to change. Law students are not and will never be undergraduate arts or science students, but that doesn't mean they can't be involved in their Students' Society at the same level, albeit in their own, different way.

Finally, and as you may have guessed from the above reasoning, we do not view our wish to terminate the long-term obligation to donate \$6000/year to the LSA as a reduction in support to law students. We fully expect that, by stopping the current arrangement in favour of one in which law students will have free and unrestricted access to Campus Life Fund and club subsidies, our contributions to activities run by, and of primary interest to, law students will increase, not decrease.

I hope this letter succeeds in further elaborating the position of the SSMU with respect to the obligation to provide \$6000/year in funding to the LSA. In this context, we would like to specifically underline that the SSMU does not object to supporting the activities of the Law Students' Association or any groups that operate under its aegis. We take the position that a more active student life, in almost any form, is a good thing. What we object to is the long-term obligation to remove funds from sources accessible on a competitive basis to all of our members so as to provide funding to the LSA for activities that benefit only some of our members, over which we have no control and for which we cannot ensure appropriate recognition. We hope you can understand and sympathize.

Yours very truly,

Andrew E. Bryan
Vice-President (University Affairs) and
Acting President

Les Aventures du Capitaine Corporate America

Par Laurence Bich-Carrière (Law I)

«À chacun ses (o)raisons»

Où Soeur Marie-Socrate de l'Évangile télévisé rencontre le Capitaine



Lessons on the Islamic Court

By Kerri Joffe (Law III)

Friday before the reading week, Pascale Fournier, a Boulton Fellow at the Law Faculty, convened a panel discussion on the Shari'ah / Islamic Court in Ontario. The Shari'ah / Islamic Court is not actually a court, but rather a legally binding arbitration process that is carried out in Mosques and Muslim community centres in Ontario. Those who arbitrate are often religious leaders in the Muslim community. They apply Shari'ah law, and arbitrate family law disputes only. The panel consisted of Mubin Ideen Shaikh, a Sunni Muslim man who provides arbitration services through the Masjid El Noor in Toronto; Alia Hogbens, a woman and president of the Canadian Council of Muslim Women; Homa Arjmand, a woman and founder of the

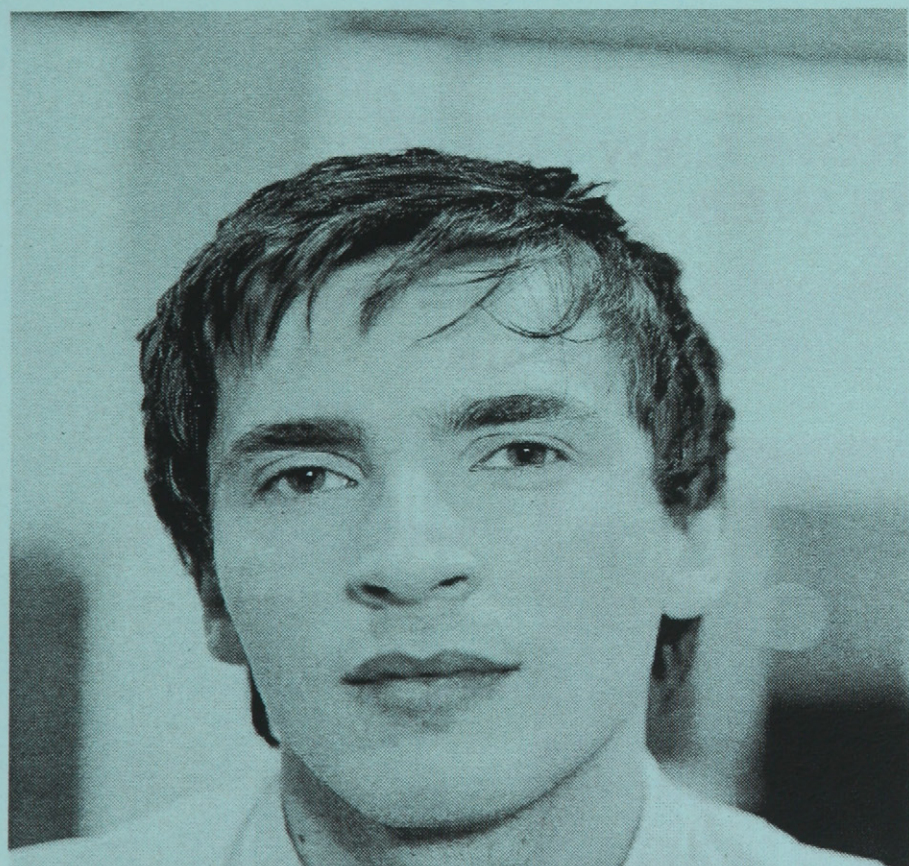
International Campaign Against the Sharia Court in Canada; and Rim Gtari, S.J.D. Candidate at U of O and specialist on women's rights in Islam.

Having read the report Marion Boyd prepared for the Attorney-General of Ontario reviewing the Shari'ah / Islamic Court, as well as opinions written by Masjid El Noor, LEAF, and the Canadian Council of Muslim Women, I knew there were radically different views on the topic, and I anticipated the discussion would be intense. What I didn't anticipate were the multiple discussions that seemed to be happening at once.

Not only were we talking about whether the Canadian state should sanction arbitration agreements that are concluded based on foreign law

(Islamic law), we were also talking about the validity of the public-private law distinction. Mubin argued that divorce, alimony and child custody and access are intensely private matters, and that there is a real need in the Muslim community to have these matters settled in a manner that corresponds with the parties' religious, cultural and community norms. Alia responded that Canadian law should apply to everyone living in Canada, and that to exclude Muslim women from the application of Canadian law is discriminatory.

The discussion also touched on the competing values of freedom of religion and equality, specifically gender equality. Homa passionately told us that the establishment of a ▶



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Shari'ah Court has nothing to do with freedom of religion and that it is instead an attempt by political Islam to oppress Muslim women. She argued that Shari'ah is inherently patriarchal and subjugates women through practices like forcing teenage women to enter into arranged marriages, and requiring women to obtain the consent of their husbands for commercial undertakings. Mubin responded that Islam does not teach the subjugation of women, and that principles of equality and justice are found in the Koran. He also noted that in his Masjid, women and men are involved in arbitration, and that steps are taken to ensure that both parties have willingly and informedly consented to arbitration. The women panelists

rejected this notion of free choice.

Another theme of the discussion was the East meets West debate, or universal human rights vs. culturally relative human rights. Mubin reminded us that for him, the Islamic / Shari'ah court question is really an excuse to put Islam on trial.

The most surprising aspect of the discussion for me was the fact that it was a discussion. I am often weary of panels that bring together people with very different views on a given topic. While it is informative to hear "both sides", these kinds of discussions often further entrench people in extremist positions. This may have happened on Friday, but what also happened was that a lot of questions

were asked. Most of these questions were directed to Mubin. People wanted to know whether Mubin does arbitration or mediation, who arbitrates in the Shari'ah / Muslim Court, how these arbitrators are chosen, and what Islamic law has to say about polygamy and other (gender) discriminatory practices. It became clear that there is a lot that is unknown about Islamic/Shari'ah arbitration, and Friday's panel served, in part, to educate those who attended about the practice. Thank you, Pascale, for organizing a debate / discussion on such a timely and interesting topic, and for helping to remind me (us) that even when I think I have canvassed "both sides" of an issue, there is much to learn. ■



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